

Remarks/Arguments

Claims 1 and 3-12 are pending in the application. Claims 1 and 3-12 are rejected by the outstanding Office Action.

Rejection of claims 1 and 3-12 under 35 U.S.C. 103(a)

Claims 1 and 3-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ye et al. (US Patent Publication No. 2006/00080000, hereinafter referred to as “Ye”) in view of Hallapuro et al., (US 7,349,473, hereinafter referred to as “Hallapuro”) and further in view of Marquant (US Patent Publication No. 2007/0147492 hereinafter referred to as “Marquant”).

Title 35 of the United States Code section 103(c)(1) states that “Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.” Based on this section of the USC, it is respectfully submitted that the newly cited reference to Marquant does not qualify as prior art and it is improper to use this reference in the rejection as this reference is owned by the same person as the present application.

The present application was filed on August 23, 2006 and assigned by all inventors to Thomson Licensing in an Assignment recorded with the US Patent and Trademark Office on August 23, 2006 at Reel 018249 and Frame 0365. The US Patent to Marquant was filed on November 13, 2006 and assigned by all inventors to Thomson Licensing in an Assignment recorded with the US Patent and Trademark Office on November 15, 2006 at Reel 018594 and Frame 0308. Additionally, each co-inventor of the present application is

also a co-inventor of the US Patent to Marquant. Each co-inventor of the present Application was an employee of Thomson Licensing and subject to employment agreement requiring them to assign all rights to the respective inventions to Thomson Licensing at the time the respective inventions were conceived. Other than Christine Guillemot, all co-inventors of the US Patent to Marquant were also co-inventors of the present application, employees of Thomson Licensing and subject to an employment agreement requiring them to assign all rights to the respective inventions to Thomson Licensing at the time the respective inventions were conceived. Christine Guillemot also executed the Assignment of the US Patent to Marquant along with the other co-inventors.

As the subject matter of Marquant and the present claimed invention were/are both “owned by the same person or subject to an obligation of assignment to the same person”, it is respectfully submitted that Marquant shall not preclude patentability of the present claimed arrangement under 35 USC 103.

As the Office Action concedes that Ye and Hallapuro neither teach nor suggest a spatial synthesis step that is followed by a hierachal temporal synthesis step as claimed in the present arrangement and Marquant, cited to show this feature, does not qualify as prior art against the present claimed arrangement for the reasons discussed above, it is respectfully submitted that this rejection is overcome and should be withdrawn.

In view of the above remarks, it is respectfully submitted that the Office Action fails to make a *prima facie* case that the present claimed arrangement as claimed in claims 1 and 3-12 are obvious over Ye and Hallapuro (as Marquant does not qualify as prior art), when taken alone or in combination. Consequently, it is respectfully submitted that the rejection of claims 1 and 3-12 is overcome and should be withdrawn.

Conclusion

Having fully addressed the Examiner’s rejections it is believed that, in view of the preceding remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of

the opinion that such action cannot be taken, the Examiner is invited to contact the applicants' attorney at the telephone number listed below, so that a mutually convenient date and time for a telephonic interview may be scheduled.

No fee is believed due with this Response. However if a fee is due, please charge such fee against deposit account 07-0832.

Respectfully submitted,
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